## REMARKS/ARGUMENTS

### Claim Amendments

The Applicant has amended no claims and no claims have been added. Applicant respectfully submits no new matter has been added. Accordingly, claims 1-32 are pending in the application. Favorable reconsideration of the application is respectfully requested in view of the foregoing amendments and the following remarks.

### Claim Rejections – 35 U.S.C. § 102(e)

Claims 1, 16, 17 & 32 stand rejected under 35 U.S.C. § 102(e) as being anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious over Jacobs, et al. (7,464,180). The Applicant respectfully traverses the rejection of these claims.

The Jacobs reference discloses a device that uses multiple priority data streams and queues to support prioritized serial transmission of data from line cards. The purpose of Jacobs is to provide differing levels of QoS by providing multiple frame priorities. Jacobs inserts commands into data streams indicating a switch from one priority class to another. (Abstract)

The present application transmits data elements based on their priority class in consideration of a buffer fill level for that particular priority class at the receiving device. The highest priority class is emphasized in transmission and only after transmission of a sufficient number of data elements in the highest priority class to maintain a corresponding target buffer fill level at the receiving device, the transmitting device will transmit data packets having the next highest priority. This procedure is repeated with successively lower priorities until bandwidth is exhausted or all data elements of all classes have been transmitted. (Page 12, lines 1-21)

The Jacobs reference fails to disclose associating a buffer fill level detector with priority classes and when a buffer for receiving first priority data elements is filled, then a data element class with a second priority lower than the first priority is transmitted. The Jacobs reference does not disclose the buffer fill level detector, nor does Jacobs disclose a transmitter controller that transmits priority data elements to a buffer wherein the level of the detector is used to determine when to switch to transmission of data

elements of a lower priority. This being the case, the Applicant respectfully requests the allowance of claim 1 and analogous claims 16, 17 and 32.

## Claim Rejections – 35 U.S.C. § 103 (a)

Claims 2-15 & 18-31 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Jacobs et al (7,464,180) in view of commonly known or well known buffer control techniques in the art. The Applicant respectfully traverses the rejection of these claims.

The Applicant agrees with the Examiner that there are well known buffer control techniques in the art. However, the Applicant submits that the claim does not state controlling the buffer; controlling transmission of data elements is what is claimed. When a buffer fill level of a data element of a first class is reached (fill level detector), then the transmitter data elements of a second, and lower, priority are then transmitted. The Applicant respectfully submits that Jacobs at least does not disclose controlling the transmission of different priority level data elements according to a detected buffer fill level.
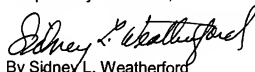
Claims 2-15 and 18-31 depend from claims 1, 16, and 17 respectively and recite further limitations in combination with the novel elements of the independent claims. Therefore, the allowance of claims 2-15 and 18-31 is respectfully requested.

## CONCLUSION

In view of the foregoing remarks, the Applicant believes all of the claims currently pending in the Application to be in a condition for allowance. The Applicant, therefore, respectfully requests that the Examiner withdraw all rejections and issue a Notice of Allowance for all pending claims.

The Applicant requests a telephonic interview if the Examiner has any questions or requires any additional information that would further or expedite the prosecution of the Application.

Respectfully submitted,

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